

**Sec. 5.3000. (D) DOWNTOWN DISTRICT.**

**Editor's note:** A section listing is deleted at this point as being inconsistent with the format of the zoning ordinance.

**Sec. 5.3001. Purpose.**

The purpose of the D downtown district is to identify the downtown area by designation, to delineate special land use subdistricts, and to formulate appropriate development standards toward implementation objectives articulated in the downtown plan adopted by resolution by City Council. Specific objectives of the downtown plan which these D (downtown) district regulations will implement include:

- A. Preserve and protect the character of the Fifth Avenue, Old Town and West Main districts as pedestrian-oriented shopping areas.
- B. Encourage new hotel development to support specialty retailing downtown.
- C. Attract new office development to sites suitable for such use.
- D. Provide opportunities and incentives for residential projects and for mixed-use development.
- E. Encourage historic preservation.
- F. Establish incentives for underground parking and off-site parking in order to promote more efficient use of land and to improve the appearance of downtown.
- G. Allow latitude for creative design and architectural variety within limits established to preserve solar access, light, and privacy and to create definitive streetscapes.
- H. Encourage joint project planning by neighboring property owners.
- I. Establish incentive and bonus system to obtain public amenities.

(Ord. No. 1796, 11-5-85)

**Sec. 5.3002. Conflict with other sections.**

Where there is conflict between these D downtown district provisions and other sections of the zoning ordinance, these D (downtown) district regulations (sections 5.3000 through 5.3090) shall govern development within the D downtown district except where specifically superceded by the downtown overlay (DO).

(Ord. No. 1796, 11-5-85; Ord. No. 3520, § 1, 7-1-03)

**Sec. 5.3010. Definitions.**

*Adjacent curb:* An existing curb abutting a lot. On a corner lot or a lot bounded by two (2) or more streets or alleys, the nearest adjacent curb is the curb that is closest to the center of a building pad, which is determined by the intersection of diagonal lines connecting the outermost corners of the building pad. For lots adjacent to elevated or depressed streets, the elevation of the adjacent curb shall be considered to be the elevation as if the street were at grade and not depressed.

*Adjacent lot:* A lot that either abuts for a distance not less than twenty-five (25) feet along a side or rear lot line of another lot or would so abut for such a distance if not separated by an alley.

*Building envelope:* The volume within which a building may be designed as shaped by the building setback, the inclined stepback plane, and the height limit.

*Building footprint* shall mean the building area occupied by a single tenant and associated tenant spaces having common access within the confines of the primary use. The building footprint does not include outdoor activity areas, basements, or floor areas above the first floor level.

*Building line:* The location of a wall of a building nearest to and most nearly parallel to a property line.

*Building height:* The vertical distance measured from grade to top of roof structure. Grade shall be either three (3) feet above the lowest adjacent curb, or twelve (12) inches above average curb, whichever is lowest. Top of building in a Type 1.5 and a Type 2 area shall be the highest point of the structural roof element; and in a Type 1 area the highest point of the coping of a flat roof, or the highest point of a mansard roof, or to the highest gable of a pitch or hip roof.

*Building setback:* The minimum distance a building can be located from the planned curb, centerline of an alley, or a property line, as appropriate to the following:

1. Building setbacks (front or side) from streets shall be measured from the planned curb.
2. Building setbacks from an alley shall be measured from the centerline of the alley.
3. Building setbacks in all other cases shall be measured from the property line.

Where a building setback is not stipulated it shall be considered to be on the property line.

*Covered walk:* A continuous walkway sheltered by a roof structure adjacent and open to the roadway, and accessible to the public at all times.

*Development type:* The character of development sought in various parts of downtown designated as type 1, type 1.5 or type 2, and as regulated by standards listed in schedule B, section 5.3060.

*Floor area, gross:* The sum of the floor areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the center line of a wall separating two (2) buildings. Gross floor area shall not include:

- A. Parking area in building structures.
- B. Uncovered steps.
- C. Exterior balconies.

*Floor area ratio (FAR):* The ratio of gross building floor area to the net lot area of the building site.

*Inclined stepback plane:* An imaginary plane sloping inward on the site from a specified height on the building setback, which together with the building setback and the height limit defines the allowable building envelope.

*Off-site parking:* Parking in a privately or publicly owned parking lot or structure that is not located on the same lot as the use it serves.

*Overlay district:* A special zoning district prescribing additional regulations to those of an underlying subdistrict (see section 5.3080).

*Planned block development (PBD):* A plan for a larger parcel area which may include multiple ownerships, allowing flexibility in certain development standards, and requiring approval by City Council. A planned block development may include certain modifications to land use regulations or development standards, and shall be adopted or amended in accord with section 5.3082.

*Planned curb:* A reference back of curblines along a property frontage from which the building setback is measured and which is established by the public works administrator.

*Subdistrict:* One (1) of the zoning subdistricts established to regulate land use within the (D) downtown district.

*Underground parking:* Parking in a structure not higher than three (3) feet above the lowest

adjacent top of curb reference point.

(Ord. No. 1796, 11-5-85; Ord. No. 1932, § 1, 4-7-87; Ord. No. 1996, § 1, 2-1-88; Ord. No. 3394, 6-19-01)

### **Sec. 5.3020. Approvals required.**

No structure shall be built or altered without Development Review Board approval to be obtained as prescribed in article I, section 1.900.

(Ord. No. 1796, 11-5-85; Ord. No. 3225, § 1, 5-4-99)

### **Sec. 5.3030. Land use standards.**

Within the D district six (6) subdistricts are identified in accordance to their function within the downtown and shown on the official zoning map. Land uses appropriate to each of these subdistricts are identified and shown in schedule A. These land uses are allowed at three (3) levels of permitted activity:

TABLE INSET:

"P"	--Permitted without conditions.
"L"	--Permitted with limitations to size or use characteristics as described in land use classifications (section 5.3050).
"CU"	--Permitted with a conditional use permit.

### **SCHEDULE A**

#### **LAND USE REGULATION FOR SUBDIVISIONS OF THE (D) DOWNTOWN DISTRICT**

TABLE INSET:

Use Classifications	Retail Specialty Subdistrict	Office/ Commercial Subdistrict	Office/ Residential Subdistrict	Regional Commercial Office Subdistrict	Residential/ Hotel Subdistrict	Medical Subdistrict	Civic Center Subdistrict	Residential High Density
<i>Residential</i>								
Day Nursery	--	--	CU	--	CU	--	--	CU
Group residential	--	--	CU	--	CU	L(2)	--	CU
Multifamily residential	L(1)	P	P	P	P	P	P	P
Specialized health care facility	--	--	CU	--	--	P	--	--
Minimal health care facility	--	--	CU	--	--	P	--	--

Single-family residential	--	--	P	--	P	--	--	--
<i>Visitor accommodations</i>								
Hotels, motels, and resorts	CU	P	P	P	P	--	--	CU
<i>Commercial</i>								
Adult businesses	--	CU	--	CU	--	--	--	--
Ambulance services	--	--	--	--	--	P	--	--
Animal sales and services								
Animal hospitals	--	P	--	P	--	--	--	--
Pet stores	L(8)	P	--	P	--	--	--	--
Banks and savings & loans	L(3)	P	P	P	--	P	--	--
With drive-up service	--	P	CU	P	--	P	--	--
Catering services	L(8)	P	--	P	--	--	--	--
Commercial recreation and entertainment								
Game center, pool halls, billiard parlors	--	CU	--	CU	--	--	--	--
Other	L(3)	P	--	P	--	--	CU	--
Communications facilities	--	CU	--	CU	--	--	--	--
Small-scale	--	P	P	P	--	--	--	--
Eating and drinking establishments	P	P	P	P	CU	L(2)	--	--
Live entertainment establishment	CU(10)	CU(10)	--	CU(10)	CU(10)	--	--	--
With take-out service	L(3), (8)	L(3)	L(3)	L(3)	--	--	--	--
Drive-through	--	P	--	P	--	--	--	--
Bar/Microbrewery	L	L	--	L	L	--	--	--
Bar/Microbrewery with limited retail and wholesale sales	CU	CU	--	CU	--	--		
Food sales	L(3)	P	P	P	--	--	--	--
Laboratories	--	P	--	P	--	P	--	--

Maintenance and repair services	--	P	--	P	--	--	--	--
Mortuaries	--	CU	--	--	--	--	--	--
Nurseries, plant	--	CU	--	CU	--	--	--	--
Offices, business and professional	L(5)	P	P	P	--	P	--	--
Offices, medical and dental	L(5)	P	P	P	--	P	--	--
Pawnshops	--	P	--	--	--	--	--	--
Personal improvement services	L(5)	P	--	P	--	--	--	--
Health studio	--	P	--	P	--	--	--	--
Massage studio	--	P	--	P	--	--	--	--
Personal and convenience services	L(3), (6)	P	L(2), (3)	P	L(3), (4)	L(2), (3)	--	--
Retail sales								
Arts and crafts	P	--	--	P	L(4)	--	--	--
Big box	--	--	--	P	--	--	--	--
Home furnishings and hardware	L(3)	CU(9), (11)	--	P	--	--	--	--
Other	L(3)	P	--	P	--	--	--	--
Pharmacies and medical supplies	--	P	--	P	L(4)	L(2)	--	--
Seasonal art festival	CU	--	--	CU	--	--	--	--
Secondhand appliance sales	--	P	--	--	--	--	--	--
Travel services	L(3)	P	L(2)	P	L(4)	P	--	--
Vehicle/equipment sales and services								
Automobile rentals	L(7)	CU	--	CU	L(7)	--	--	--
Automobile washing	--	CU	--	CU	--	--	--	--
Commercial parking facility	CU	CU	CU	CU	--	CU	--	--
Service stations	--	CU	CU	CU	--	--	--	--

Vehicle/equipment repair	--	CU	--	CU	--	--	--	--
Wireless communications facilities, (see sections 1.400, 1.906, 3.100 and 7.200)								
Types 1, 2, and 3	--	L(12)	L(12)	L(12)	L(12)	L(12)	L(12)	L(12)
Type 4	--	CU(9)	CU(9)	CU(9)	CU(9)	CU(9)	CU(9)	CU(9)
<i>Public and Semi-Public</i>								
Clubs and lodges	L(5)	P	CU	P	CU	--	--	CU
Colleges and universities	--	CU	CU	CU	--	--	--	--
Cultural institutions	CU	CU	CU	--	CU	--	CU	--
Government offices	--	P	P	P	--	--	CU	--
Hospitals, clinics	--	--	--	--	--	CU	--	--
Municipal uses	--	P	P	P	P	--	CU	--
Religious assembly	--	CU	CU	CU	CU	--	--	CU
Schools, public or private	--	--	CU	--	CU	--	--	CU
Transportation facilities	CU	CU	--	CU	--	--	--	--
Limited	CU	CU	CU	CU	--	CU	--	--
Utilities	--	CU	CU	CU	--	--	--	--
<i>Accessory</i>								
Accessory parking, separate	L(8)	P	P	P	--	P	CU	--
Accessory uses and structures	P	P	P	P	P	P	CU	P

### ADDITIONAL REGULATIONS PERTAINING TO LAND USE SUBDISTRICTS

- (1) Not permitted on first-floor and cannot occupy more than twenty-five (25) percent of floor area.
- (2) Permitted only in mixed-use development as an accessory use.
- (3) Only "limited" or "small-scale" uses allowed, as defined by use classifications.
- (4) Permitted as accessory use on the site of a hotel or resort only if there is no separate entrance or sign for the limited use.
- (5) Not permitted on ground-floor within twenty-five (25) feet of a street property line.
- (6) Total ground level frontage occupied by this use classification shall not exceed fifteen (15) percent

of the street frontage on a blockface plus the street property lines forming the sides of corner lots.

(7) On-site storage limited to two (2) rental cars.

(8) Not permitted in (P) pedestrian overlay district; see section 5.3081.

(9) Type two (2) districts only.

(10) See section 1.403 for criteria.

(11) Only "medium-scale" uses allowed, as defined by use classification.

(12) Permitted when building or roof mounted; see sections 1.400, 1.906 and 3.100.

(Ord. No. 1796, 11-5-85; Ord. No. 1932, § 1, 4-7-87; Ord. No. 2232, § 1, 6-6-89; Ord. No. 2311, § 1, 8-21-90; Ord. No. 2430, § 1, 1-21-92; Ord. No. 2620, § 1, 8-2-94; Ord. No. 3020, § 1(a), 6-3-97; Ord. No. 3048, § 2, 10-7-97; Ord. No. 3103, § 1, 1-6-98; Ord. No. 3225, § 1, 5-4-99; Ord. No. 3394, 6-19-01; Ord. No. 3493, § 1, 3-4-03)

### **Sec. 5.3040. Subdistrict classifications.**

A. *(RS) retail/specialty subdistrict.* This subdistrict classification protects the established character of the downtown retail specialty area and, together with development standards, regulates to achieve a compact concentration of those uses appropriate to a pedestrian-oriented selective shopping environment. Residential use is permitted in mixed-use development.

B. *(OC) office/commercial subdistrict.* This subdistrict is intended to provide opportunities for a full range of retail and service businesses appropriate in downtown. Residential use is permitted in mixed-use development.

C. *(OR) office/residential subdistrict.* This subdistrict provides for an environment compatible with office and residential uses either as mixed uses on one (1) site or as neighboring uses. Ancillary uses such as retail are permitted for local convenience, but limited in scale and design to protect against dispersion of these activities from other designated subdistricts.

D. *(RCO) regional commercial office subdistrict.* This subdistrict is intended to provide for large-scale development of office and commercial uses, including regional shopping centers. Residential use is permitted in mixed-use development.

E. *(RH) residential/hotel subdistrict.* This subdistrict provides for residential/hotel development in an attractive, landscaped environment protected from incompatible uses. Retail and other commercial uses are permitted within hotels and resorts in order to serve the convenience of guests, but limited for the primarily residential character of this subdistrict and to direct the concentration of retail businesses and other appropriate subdistricts.

F. *(M) medical subdistrict.* This subdistrict provides for medical uses and supporting services, with residential development permitted in mixed-use projects. Limitations on nonmedical uses are intended to favor this area primarily for medical activity.

G. *(CC) civic center subdistrict.* This subdistrict regulates development and activities in an area designated principally for public and semi-public land uses.

H. *(RHD) residential high density subdistrict.* This subdistrict provides for a residential environment appropriate for multifamily residential development, and includes standards designed to ensure that light and reasonable privacy are preserved and that adequate open space is provided.

(Ord. No. 1796, 11-5-85)

### **Sec. 5.3050. Land use classifications.**

**Sec. 5.3051. Residential use classifications.**

- A. *Day care center.* Public or private establishment providing nonmedical care and supervision for five (5) or more \*persons not related to the operator. This classification includes nursery schools, pre-schools, and day care centers for children and adults.
- B. *Group residential.* Shared living quarters without separate kitchen facilities for each room or unit, including convents, and other special residences.
- C. *Multifamily residential.* Two (2) or more dwelling units on a lot.
- D. *Specialized health care facility.* Convalescent homes or nursing homes.
- E. *Minimal health care facility.* Apartment-like accommodation but with some central services such as central dining, transportation service and limited medical assistance.
- F. *Single-family residential.* One (1) dwelling unit on a lot.

(Ord. No. 1796, 11-5-85)

**Sec. 5.3052. Visitor accommodations use classifications.**

- A. *Hotels, motels, and timeshare facilities.* Establishments offering daily, weekly, or monthly lodging in dwelling units or guest units. These facilities may provide for ancillary recreation and athletic activities such as golf, horseback riding, swimming, shuffleboard, tennis, and similar activities, and offer eating, drinking, and banquet services. Guest units are defined as living and sleeping accommodations for an individual or family without cooking facilities, and within a hotel, resort or timeshare facility.

(Ord. No. 1796, 11-5-85)

**Sec. 5.3053. Commercial use classifications.**

- A. *Adult uses.* A business based primarily upon materials or performances that depict, describe, or relate to "specified sexual activities" or "specified anatomical areas," as defined in article III.
- B. *Ambulance services.* Provision of emergency transportation which may include medical care, and including storage and maintenance of vehicles.
- C. *Animal sales and services.*
  - 1. *Animal Hospitals.* Establishments where small animals receive medical and surgical treatment. This classification includes only facilities that are entirely enclosed, soundproofed, and air conditioned. Grooming and temporary (up to thirty (30) days) boarding of animals is included if incidental to the hospital use.
  - 2. *Pet Stores.* Retail sales of small animals, provided such activities take place within an entirely enclosed building. This classification includes grooming if incidental to the retail use, and boarding of animals not offered for sale for a maximum period of forty-eight (48) hours.
- D. *Art gallery.* A place or establishment where the main business activity is that of buying and selling primarily original paintings, sculpture or limited edition art prints and those items of handcrafting generally considered as types of fine art, such as ceramics, glass, wood, fiber, mixed media and other materials; having an office or gallery staff on-site in person; being open to the public or art dealers on a regular basis. For the purpose of this definition, "primary" shall mean that at least eighty (80) percent of physical space and business activity shall be committed to buying, selling, displaying and storing original or one-of-a-kind works of art



- E. *Banks and savings and loans.* Financial institutions that provide retail banking services. This classification includes only those institutions engaged in the on-site circulation of cash.
1. With Drive-up Service. Institutions providing services to persons who remain in their automobiles.
  2. Small-scale. Limited to facilities occupying less than two thousand (2,000) square feet.
- F. *Catering services.* Preparation and delivery of food and beverages for off-site consumption without provision for on-site pickup or consumption.
- G. *Commercial/recreation and entertainment.* Provision of participant or spectator recreation or entertainment.
1. Game Center, Pool Hall, Billiard Parlor.
  2. Other. Bowling alleys, ice/roller skating rinks, tennis/racquetball courts, and indoor theaters.
    - a. Limited. Indoor movie theaters and performing arts theaters.
- H. *Communications facilities.* Broadcasting, recording, and other communication services accomplished through electronic or telephonic mechanisms but excluding utilities. This classification includes radio, television, or recording studios; telephone switching centers; and telegraph offices.
1. Small-scale. Limited to communication facilities occupying less than two thousand (2,000) square feet of space and without transmitter towers.
- I. *Eating and drinking establishments.* Businesses serving prepared food or beverages for consumption on or off the premises.
1. Bars With Live Entertainment/Patron Dancing.
  2. With Take-out Service. Establishments at which twenty (20) percent or more of the transactions are sales for off-site consumption.
    - a. Drive-through. Service from a building to persons in vehicles through an outdoor service window. This classification excludes "drive-in" service where food or drink are ordered from and served by persons outside of a building.
    - b. Limited. Establishments that do not serve persons in vehicles.
  3. Bar/Microbrewery; Facility with provision for the brewing of beer for on-premises consumption only. Limited ability to supply catered functions. Maximum of fifteen (15) percent of floor area shall be devoted to the brewery.
  4. Bar/Microbrewery with Limited Retail and Wholesale Sales. A maximum of thirty (30) percent of floor area may be used for the brewing, bottling and/or packaging of the product.
- J. *Food sales.* Retail sales of packaged food and food for home preparation. This includes bakeries, candy stores, grocery stores and supermarkets.
1. Small-Scale. Occupying less than five thousand (5,000) square feet of space.
- K. *Laboratories.* Establishments providing medical or dental laboratory services; or establishments occupying less than two thousand (2,000) square feet that provide photographic, analytical, or testing services. Other laboratories are excluded from this classification.
- L. *Maintenance services and repair services.* Establishments providing appliance repair, office machine repair, and upholstery, or establishments providing building maintenance (janitorial) services. This classification excludes maintenance and repair of vehicles (see vehicle/equipment repair).
- M. *Mortuaries.* Provision of services such as preparing the deceased for burial and

conducting funerals. This classification excludes cemeteries, crematoriums, columbariums, and mausoleums.

N. *Offices, business and professional.* Offices of firms or organizations providing professional, executive, management, or administrative services, such as architectural, engineering, real estate, insurance, investment, and legal offices. This classification excludes banks and savings and loans, and medical and dental offices.

O. *Offices, medical and dental.* Offices providing medical or dental services, including laboratories incidental to an office use.

P. *Pawnshops.* Establishments in which the business of pawnbrokers is conducted, subject to the requirements of the City Code.

Q. *Personal improvement services.* Provision of instructional services or facilities, including the teaching of photography, fine arts, crafts; dance or music studios; driving schools; business and trade schools, reducing salons and fitness studios.

1. Health Studios or Spas. Establishments with equipment for exercise and physical conditioning.

2. Massage Studios. Establishments providing massage services. Establishments offering massage by one (1) person to another of the other gender are not permitted.

R. *Personal and convenience services.* Provision of recurrently needed services of a personal nature. This classification includes barber and beauty shops, tailors, shoe repair shops, dry cleaning establishments (excluding bulk cleaning), photocopying, and self-service laundries.

1. Limited. Excludes dry cleaning establishments and self-service laundries.

S. *Plant nurseries.* Establishments primarily engaged in the sale of plants in which all merchandise other than plants are kept within an enclosed building or a fully screened enclosure, and fertilizer of any type is stored and sold in package form only.

T. *Retail sales.*

1. Arts and Crafts. Establishments selling art objects, art supplies, antiques, jewelry, handmade glass, custom photographs, pottery, porcelain, leather goods, and similar products. This classification includes art galleries, antique shops, craft shops, jewelry design and creation studios, photo studios, and wholesale distribution of high-value, low-bulk arts and crafts merchandise, such as gems, works of art, and handmade crafts.

2. Big box shall mean any single retail space with a building footprint of equal to or greater than 75,000 square feet.

3. Home Furnishings and Hardware. Establishments selling awnings and canvas, home appliances, carpets and floor coverings, hardware, furniture, kitchen utensils, paint, and wallpaper.

- a. Small-scale. Occupying less than three thousand (3,000) square feet.

- b. Medium-scale. Occupying up to twelve thousand (12,000) square feet.

4. Other Retail Sales. This classification includes department stores, drugstores, clothing stores, and fabric stores, and businesses retailing the following goods: toys, hobby materials, books, guns, cameras, photographic supplies, electronic equipment, records, sporting goods, shoes, office supplies, stationery, bicycles, and new automotive parts and accessories (excluding service and installation).

- a. Small-scale. Occupying less than three thousand (3,000) square feet.

5. Pharmacies and Medical Supplies. Establishments primarily selling prescription drugs and medical supplies and equipment at wholesale or retail. This classification excludes dispensing opticians and drugstores primarily selling general merchandise.

U. *Secondhand appliance sales.* The retail sale of used appliances. This classification excludes antique shops primarily engaged in the sale of used furniture and accessories other

than appliances.

V. *Travel services.* Establishments providing travel information and reservations to individuals and businesses. This classification excludes car rental agencies (see vehicle/equipment sales and services).

1. Small-scale. Limited to establishments occupying less than two thousand (2,000) square feet.

W. *Vehicle/equipment sales and services.*

1. Automobile Rentals. Rental of automobiles, including storage, but excluding maintenance.
2. Automobile Washing. Washing, waxing, or cleaning of automobiles or similar light vehicles.
3. Commercial Parking Facility. Lots offering short-term or long-term parking to the public for a fee.
4. Service Stations. Establishments engaged in the retail sale of gas, diesel fuel, lubricants, parts, and accessories. This classification includes incidental maintenance and repair of automobiles and light trucks, but excludes body and fender work or repair of heavy trucks or vehicles.
5. Vehicle/Equipment Repair. Repair of automobiles, trucks, motorcycles, mobile homes, recreational vehicles, or boats, including the sale, installation, and servicing of related equipment and parts. This classification includes auto repair shops, wheel and brake shops, and tire sales and installation, but excludes vehicle dismantling or salvage, tire retreading or recapping, and body and fender shops.

(Ord. No. 1796, 11-5-85; Ord. No. 2232, § 1, 6-6-89; Ord. No. 2279, § 1, 1-16-90; Ord. No. 3020, § 1 (b), 6-3-97; Ord. No. 3394, 6-19-01)

#### **Sec. 5.3054. Public and semi-public use classifications.**

- A. *Clubs and lodges.* Meeting, recreational, or social facilities of a private or nonprofit organization primarily for use by members or guests.
- B. *Colleges and universities.* Public or private educational institutions that offer a course of study leading to a recognized degree.
- C. *Cultural institutions.* Nonprofit institutions displaying or preserving objects of interest in one (1) or more of the arts or sciences. This classification includes libraries, museums, and nonprofit art galleries.
- D. *Government offices.* Administrative, clerical, or public contact offices of a government agency, including postal facilities, together with incidental storage and maintenance of vehicles.
- E. *Hospitals.* Facilities providing medical, surgical, psychiatric, or emergency medical services to sick or injured persons, primarily on an inpatient basis. This classification includes incidental facilities for out-patient treatment, and twenty-four-hour emergency clinics, as well as training, research, and administrative services for patients and employees.
- F. *Municipal uses.* Any use providing service to the general public that is operated by or contracted for by the City of Scottsdale.
- G. *Wireless communications facilities,* subject to the requirements of sections 1.400, 1.906, 3.100 and 7.200.
- H. *Religious assembly.* Facilities for religious worship and incidental religious education.
- I. *Schools, public or private.* Public elementary or secondary schools or private schools that offer a curriculum comparable to that of the public schools of the State of Arizona, excluding colleges and universities.

J. *Transportation facilities.* Facilities for loading, unloading, and transferring passengers, baggage, and incidental freight between links of transportation. This classification includes bus terminals, public transit and trolley stations.

1. Limited. Transit stops and trolley stations.

K. *Utilities.* Electrical substations, refuse collection or disposal facilities, water reservoirs, water or wastewater treatment plants, and similar facilities of public agencies or public utilities. Utility facilities that are necessary to support legally established uses and involve only minor structures such as electrical distribution lines are excluded.

(Ord. No. 1796, 11-5-85; Ord. No. 2430, § 1, 1-21-92; Ord. No. 3048, § 2, 10-7-97; Ord. No. 3103, § 1, 1-6-98; Ord. No. 3493, § 1, 3-4-03)

### Sec. 5.3055. Accessory use classification.

A. *Accessory parking, separate.* Required automobile parking on a site separate from the use it serves.

B. *Accessory uses and structures.* Uses and structures that are incidental to the principal permitted or conditionally permitted use or structure on a site and are customarily found on the same site.

(Ord. No. 1796, 11-5-85)

### Sec. 5.3060. Site development standards.

Schedule B prescribes two (2) types of development standards applicable to areas in the D district as shown on the official zoning map: Development type 1 for areas of compact development, and development type 2 for areas of intermediate and large-scale development. Basic development standards within each development type are listed. References in the additional regulations column refer to regulations located elsewhere in the zoning ordinance.

(Ord. No. 1796, 11-5-85)

## SCHEDULE B

### SITE DEVELOPMENT STANDARDS

#### TABLE INSET:

		Type 1 Area (Compact Development)	Type 1.5 Area (Low-Scale Development)	Type 2 Area (Intermediate Development)	Additional Regulations
I. <i>Development Requirements</i>					
1.	Basic Floor Area Ratio (FAR)	0.8	0.8	0.8	Section 5.3090
a.	Underground parking FAR bonus maximum	0.3	0.3	0.3	Section 5.3090 C1, 9.108.C.3.

	b.	Historic site FAR bonus maximum	0.2	0.2	0.2	Section 5.3090 C2.
	c.	Special improvements FAR bonus maximum	0.3	0.3	0.3	Section 5.3090 C4.
	d.	Planned block development FAR bonus max.	0.1	0.1	0.1	Sections 5.3061 A, 5.3082
2.		Total maximum FAR (excluding residential bonus and right-of-way credit)	1.5	1.4	1.4	Sections 5.3061 B, 5.3065
	a.	Residential/hotel FAR bonus maximum	0.5	0.4	0.4	Section 5.3090 C3.
3.		Total maximum FAR (including residential but excluding right-of-way credit)	2.0	1.8	1.8	Section 5.3061 L
<b>II. Site Requirements</b>						
1.		Minimum Site Area	None required	None required	None Required	
2.		Minimum Front Building Setback	12 feet from planned curb	20 feet from planned curb except designated street frontages	20 feet from planned curb except designated street frontages	Sections 5.3066, 5.3061 G, 5.3061 H, 5.3081 C
3.		Minimum Interior Side Building Setback	None	None	None	Sections 5.3066, 5.3061 I
4.		Minimum Corner Side Building Setback	12 feet from planned curb	20 feet from planned curb	20 feet from planned curb	Section 5.3066
5.		Minimum Rear Building Setback	No minimum except as required for off-street loading and trash storage	No minimum except as required for off-street loading and trash storage	No minimum except as required for off-street loading and trash storage	Sections 5.3066, 5.3061 I
6.		Landscaping	No minimum	No minimum	No minimum	Section 5.3062
7.		Parking	Pursuant to article IX	Pursuant to article IX	Pursuant to article IX	Pursuant to article IX
8.		Signs				Section 5.3061 K

TABLE INSET:

			Type 1 Area (Compact Development)	Type 1.5 Area (Low-Scale Development)	Type 2 Area (Intermediate Development)	Additional Regulations
III. Building Design Requirements						
1.	Basic Height Maximum (all uses)		26 feet (not more than 2 levels)	26 feet	38 feet (not more than 3 levels)	Section 5.3061 C
2.	Bonused Height Maximums					Section 5.3090
a.	Planned block development (all uses)					Section 5.3082
		100,000 sq. ft. minimum parcel	None	None	50 feet (not more than 4 levels)	
		200,000 sq. ft. minimum parcel	None	30 feet (not more than 4 levels)	65 feet (not more than 5 levels)	
b.	Residential use		36 feet (not more than 3 levels)	38 feet not more than 3 levels)	50 feet (not more than 5 levels)	Section 5.3061 M
c.	Hotel use		36 feet (not more than 3 levels)	38 feet (not more than 3 levels)	72 feet (not more than 8 levels)	
3.	Building Size Maximum		None	350 feet any side, 550 feet two adj. sides. Above 38-foot elevation, 200 feet maximum	350 feet any side, 550 feet two adj. sides. Above 38-foot elevation, 200 feet maximum	Section 5.3061 D
4.	Spacing Between Buildings Minimum		None	10% of two longest sides	10% of two longest sides	Section 5.3061 E
5.	Large Walls					
a.	Vertical dimension maximum		26 feet	26 feet	38 feet without additional setback	Section 5.3061 F
b.	Horizontal dimension maximum	None	200 feet without "break"	200 feet without "break"	Section 5.3061 F	
6.	Building Envelope, starting at a point 26 feet above the building setback line, the inclined stepbacks plane slopes at:		2:1 on the front, and 1:1 on the other sides of a property	1:1 up to a height of 38 feet, 2:1 thereafter on all sides of a property	1:1 up to a height of 38 feet, 2:1 thereafter on all sides of a property	Section 5.3061 J, 5.3061 N
7.	Encroachments Beyond Inclined Stepback Plane		Not permitted	A max. vertical encroachment of 15 ft. is permitted on a maximum of 25% of the length of an	A max. vertical encroachment of 15 ft. is permitted on a maximum of 25% of the length of an	Sections 5.3063, 5.3066

			elevation	elevation	
8.	Building Lines	At the first level minimum 50% of front building face shall be at front building setback	Minimum 25% of area of front bldg. face below 26 ft. shall be at front building setback. At first level, min. 25% of width of projected street elevation must be at least 10 ft. behind front building setback	Minimum 25% of area of front bldg. face below 26 ft. shall be at front building setback. At first level, min. 25% of width of projected street elevation must be at least 10 ft. behind front building setback	
9.	Private Outdoor Living Space	Minimum area of 60 sq. ft. per dwelling unit required with minimum dimensions of 6 ft.	Minimum area of 60 sq. ft. per dwelling unit required with minimum dimensions of 6 ft.	Ground-floor dwelling unit; min. dimension 10 ft. Upper floor unit; min. dimensions 6 ft. with min. area of 60 ft.	

(Ord. No. 1796, 11-5-85; Ord. No. 1932, § 1, 4-7-87; Ord. No. 1996, § 1, 2-1-88; Ord. No. 2736, § 1, 3-7-95; Ord. No. 3225, § 1, 5-4-99)

### Sec. 5.3061. Additional regulations.

- A. Within a planned block development (PBD) transfer of floor area between abutting parcels in the same ownership shall be permitted. Transfer of floor area between parcels under different ownerships in the same planned block development shall be permitted, subject to special conditions of approval for the planned block development (section 5.3082).
- B. An additional square foot of allowable floor area will be permitted for each square foot of required right-of-way dedicated to the city before December 31, 1987.
- C. Maximum building height shall not exceed thirty-eight (38) feet in the following areas:
  1. Within three hundred (300) feet of an R-1 district.
  2. Within one hundred (100) feet of a type 1 area, except that planned block development projects may be approved with a bonused height maximum of up to fifty (50) feet.
- D. Maximum building length shall not exceed:
  1. Three hundred fifty (350) feet in any horizontal dimension.
  2. Five hundred fifty (550) feet total for any two (2) adjacent building enclosure dimensions ( e.g. front and side).
  3. Two hundred (200) feet for the upper portion of a building above the thirty-eight-foot elevation.
- E. Spacing between two (2) buildings on the same site shall be not less than ten (10) percent of the larger building's two (2) longest adjacent sides at the space ( e.g. front and side).
- F. Large wall surfaces shall be controlled in vertical dimension and horizontal dimension by the following:
  1. *Horizontal dimension:* No wall surface shall be more than two hundred (200) feet long without a "break" (a break shall be an interruption of the building wall plane with either a recess or an offset measuring at least twenty (20) feet in depth, and one-quarter of the building in length. The offset angle constituting the "break" recess shall be between ninety (90) degrees and forty-five (45) degrees to the wall).
  2. *Vertical dimension:* A tall wall shall be set back an additional two (2) feet for every foot it measures in excess of thirty-eight (38) feet in vertical dimension. Such a wall shall constitute less than fifty (50) percent of the building's length as projected to any street or alley frontage. (Parallel vertical wall planes offset less than ten (10) feet shall be

considered to be in the same plane).

3. Interior side walls farther than sixteen (16) feet from a side property line and within one hundred (100) feet of the front setback line shall not have a vertical dimension greater than thirty-eight (38) feet without an offset of at least ten (10) feet. Offset angles shall be between ninety (90) degrees and forty-five (45) degrees to the wall. Exempt from this requirement are multifamily dwellings, hotels, and buildings containing less than fifty thousand (50,000) square feet in gross floor area.

G. Where existing setbacks on forty (40) percent or more of a blockface are less than the specified setback, the required setback on a site to be developed shall be the average setback of the developed portion of the blockface. Section 7.201 (adjustment of front yard requirements) shall not apply.

H. Buildings fronting on Camelback Road, Indian School Road, and on Scottsdale Road north from Camelback Road and south from Osborn Road to the D district boundary, shall be set back forty (40) feet from the planned curbline. Buildings fronting on the couplet road and located in a type 2 area shall be set back thirty (30) feet from the planned curbline.

I. No building wall shall be so placed as to create a yard measuring less than three (3) feet at a property line between two (2) private properties.

J. Adjoining an R-1 district, the inclined stepback plane shall be 1:1 from a ten-foot high stepback line.

K. RHD subdistrict signs shall comply with article VIII R-5 regulations. Signs in all other subdistricts shall conform with C-2 district regulations.

L. For residential development and timeshare facilities (as defined in section 3.100), density shall not exceed fifty (50) dwelling units per gross acre.

M. In order to qualify for the fifty-foot bonused height maximum a residential use shall be on a site larger than twenty thousand (20,000) square feet.

N. The inclined stepback plane shall not apply to interior property lines within a planned block development.

(Ord. No. 1796, 11-5-85; Ord. No. 1899, § 1, 7-15-80; Ord. No. 1932, § 1, 4-7-87; Ord. No. 1996, § 1, 2-1-88)

### **Sec. 5.3062. Screening and landscaping.**

A. *Screening.* Fences, walls, hedges, or berms shall not exceed three (3) feet in height between a building setback line and a street property line or eight (8) feet in height between a building setback line and an interior side or rear property line.

A nonresidential use shall be screened from adjoining ground floor residential use or an adjacent residential district by masonry walls of the maximum heights permitted by this section unless the Development Review Board finds that such walls are unnecessary or inappropriate at the specific location.

All operations and storage shall be conducted within a completely enclosed building or within an area screened by a wall or fence approved by the Development Review Board or prescribed by the use permit if such is required for a principal use on the site.

B. *Landscaping.* All setback areas visible from the street shall be improved with landscaping, paving, walks or other appropriate materials. Landscaping shall include mature trees: In a type 1 area in accordance with requirements of the Development Review Board; and in a type 2 area, one (1) mature tree per four hundred (400) square feet of landscape area.

C. *Maintenance of required planting areas.* Required planting areas shall be permanently maintained. This includes watering, weeding, pruning, insect control, and replacement of plant materials and irrigation equipment as needed to preserve the health and appearance of the



plant materials.

D. *Preservation of mature trees.* The removal or alteration of one (1) or more mature trees shall be by permit, issued by the project review director. The project review director's decisions shall be in accord with guidelines for tree planting, alteration, and removal established by the Development Review Board. The project review director may require that a tree removed to remedy adverse affects on views, privacy and amenity, be replaced by a mature tree at the same or another location.

(Ord. No. 1796, 11-5-85)

#### **Sec. 5.3063. Exceptions to height limits.**

A. A maximum vertical building encroachment of fifteen (15) feet is permitted into the inclined stepback plane for not more than twenty-five (25) percent of the length of the building's elevation, but not above the maximum allowable bonused building height.

B. The ridge of sloping roof or a parapet wall, in addition to A above, may encroach vertically into the inclined stepback plane and into the maximum allowable height no more than four (4) feet in type 2 and type 1.5 areas only.

C. The following paragraph supersedes sections 7.100--7.103 (exceptions to height restrictions) which shall not apply within the D district.

Towers, spires, chimneys, transmission towers, fire towers, flag poles, utility penthouses, enclosures for necessary mechanical equipment, and similar structures covering not more than 10 percent of the ground area covered by the structure to which they are accessory may exceed the allowable maximum bonused height by five (5) feet in a type 1 area, and by fourteen (14) feet in a type 1.5 or a type 2 area. Such structures located on top of a hotel or a multifamily building may, however, exceed the maximum allowable bonused height by eighteen (18) feet in a type 1.5 or a type 2 area. All such structures shall be set back a minimum of ten (10) feet from the outside edge of the roof on which they are located, and shall comply with the stepback requirements of section 5.3060, schedule B. Roofs and parapets on top of mechanical penthouses, elevator penthouses and similar structures shall not be allowed to exceed these additional height allowances.

(Ord. No. 1796, 11-5-85; Ord. No. 1932, § 1, 4-7-87; Ord. No. 1996, § 1, 2-1-88)

#### **Sec. 5.3064. Exceptions to maximum vertical and horizontal dimensions of walls.**

Upon request, the City Council, after receiving a recommendation from the Planning Commission and the Development Review Board, may modify the maximum vertical dimension of wall or maximum horizontal dimension standards prescribed in schedule B if it finds that the beneficial intent of the regulations is exceeded by a particular design.

(Ord. No. 1796, 11-5-85; Ord. No. 1996, § 1, 2-1-88)

#### **Sec. 5.3065. Credit for area in dedicated right-of-way.**

For the purpose of FAR calculations, right-of-way dedications shall not reduce the land area base size to less than eighty (80) percent of the original site size.

(Ord. No. 1796, 11-5-85)

#### **Sec. 5.3066. Building projections.**

Maximum projections permitted into a required setback area but not beyond property line shall be as follows:

- A. *Fireplaces or chimneys*: Two (2) feet.
- B. *Uncovered porches, terraces, platforms, underground garages, and patios not more than three (3) feet above grade*: May extend into a front setback yard not closer than five (5) feet to the property line.
- C. *Cornices, eaves, and ornamental features*: Two (2) feet.
- D. *Balconies, stairs, canopies, awnings, and covered porches*: Four (4) feet beyond a front or rear setback and two (2) feet beyond a side setback, not exceeding twenty-five (25) percent of the length of the adjoining property line.
- E. *Bay windows*: Two and one-half (2 1/2) feet if not on ground.

(Ord. No. 1796, 11-5-85)

### **Sec. 5.3070. Parking regulations.**

The provisions of article IX shall apply.

(Ord. No. 2736, § 1, 3-7-95)

Secs. 5.3071--5.3074. Reserved.

**Editor's note:** Ord. No. 2736, § 1, adopted Mar. 7, 1995, repealed former §§ 5.3071--5.3074, which pertained to various parking regulations.

### **Sec. 5.3080. Overlay regulations.**

#### **Sec. 5.3081. (P) pedestrian overlay district.**

A. *Purpose*. The purpose of the (P) pedestrian overlay district is to augment site development standards and land use regulations in order to obtain and preserve the compact character of certain pedestrian-oriented areas. The overlay district requirements are intended to encourage development and redevelopment that enhances the scale of the street frontages and the architecture, [and] the linkage of pedestrian activities.

B. *Boundaries*. The boundaries of the downtown shopping special use area shall be as indicated on the zoning district map by a "P" designator.

C. *Site development regulations*. Site development standards for the (P) overlay district shall be those specified in section 5.3060 schedule B with the addition of the following requirements:

1. Covered Walkways: On designated frontage shown on the zoning district map (or a supplementary map illustrating the pedestrian overlay areas), a continuous covered walk shall be required. Configuration of the covered walk shall be as follows:
  - (a) On frontages identified as local streets in the downtown plan, a building setback of twelve (12) feet is required, superseding requirements of schedule B. The covered walkway shall project in front of the building with the roof supported at a column line three (3) feet back of the planned curb line. Where a property line is more than twelve (12) feet from the planned curb, the required building setback shall be considered to be the property line.
  - (b) On frontages identified as major streets in the downtown plan, the covered walkway shall project in front of the building setback ten (10) feet to a column line supporting the roof structure.
2. Interior Side Lot Line Setbacks: Where side yards exist, they shall be screened to

provide design continuity on the building frontage.

3. **Views Into Buildings:** At least two-thirds of the width of each frontage shall consist of openings or clear glass windows providing views of merchandise displays, building interiors, or courtyards.

4. **Location of Parking:** Parking in the pedestrian overly district shall be located pursuant to article IX.

D. *Subdistrict overlay regulations.* Special needs of specific subdistricts are served by the following regulations:

1. (RS) Retail Specialty Subdistrict:

a. The following use classifications, which are permitted in the RS subdistrict, are not permitted in the overlay district:

- (1) Accessory parking, separate.
- (2) Animal sales and services: Pet stores.
- (3) Catering services.
- (4) Eating and drinking establishments with take-out service.
- (5) Automobile rental.

b. **Storefront width:** Apparent storefront width shall not exceed fifty (50) feet, except along the adjoining side lot line of a corner lot.

(Ord. No. 1796, 11-5-85; Ord. No. 1932, § 1, 4-7-87; Ord. No. 1992, § 1, 1-5-88; Ord. No. 2736, § 1, 3-7-95)

#### **Sec. 5.3082. (PBD) planned block development overlay district.**

A. *Purpose.* To capitalize on additional opportunities offered at larger scales of development, flexibility in certain land-use and development standards is available upon recommendation of the Planning Commission and express approval of City Council through the PBD overlay district.

B. *Area requirements:* Each PBD overlay district shall include a minimum contiguous land area of sixty thousand (60,000) square feet in the RS subdistrict and one hundred thousand (100,000) square feet in other underlying subdistricts, including intervening streets and alleys, and shall have no dimension less than one hundred twenty-two (122) feet. The net lot area in a PBD project shall include, for the purposes of calculating the minimum land area and allowable building gross floor area, property above or below dedicated right-of-way held either in ownership or as an easement, provided that such holdings are developed and provide pedestrian linkage acceptable to the city.

C. *Status.* Adoption of a PBD overlay district proposal shall be by amendment to the zoning district map, but the ordinance amendment shall not alter the use regulations or development standards of the underlying subdistrict except as specifically permitted below.

D. *Allowable modifications to use regulations and development standards.* Available FAR and height bonuses shall be as defined in schedule B (section 5.3060). The following modifications in use regulations and development standards may be approved as part of PBD overlay district:

1. Allowable floor area may be transferred between parcels within the same subdistrict in a PBD overlay district proposal provided that a legal instrument satisfactory to the city attorney shall be recorded limiting the building floor area on parcels from which floor area is transferred.
2. Regulations for specific use classifications may be modified by the development plan text to accommodate appropriately sized accessory uses.
3. Site development standards, not including base FAR and required parking spaces,

may be modified by the development plan text or map, provided that the maximum allowable heights shall not exceed the maximums specified in schedule B (section 5.3060).

E. *Application for designation.*

1. A proposed amendment to create a PBD overlay district may be initiated by seventy-five (75) percent of the owners of the land area within the boundaries of the proposed PBD, by the city Planning Commission, or by the City Council, as prescribed by section 1.300.
2. An application initiated by property owners shall include:
  - a. A map indicating the proposed boundaries for the PBD overlay district; the property of participating type designations.
  - b. Development plan consisting of a map and explanatory material as may be necessary to delineate land uses and locations, existing and projected building types and schematic designs, height, FAR (including any proposals for transfer of FAR), site development standards, existing and proposed open space, circulation, traffic impacts, on-site and off-site parking and any other pertinent information.
  - c. A cultural improvements component which conforms with the provisions of the downtown cultural improvements ordinance and which describes artworks, cultural facilities and cultural programs included in the project.
  - d. A comparison between underlying subdistrict regulations and standards and any proposed modified regulations and standards, together with resulting impacts.
  - e. A statement of the reasons for any requested modifications to regulations and standards, and a description of proposed means of mitigating any adverse effects.
  - f. A three-dimensional model, photomontage, or computer-generated perspective drawings depicting the relationship between proposed buildings and existing buildings within three hundred (300) feet of the proposed PBD district boundaries.

F. *Adoption of PBD overlay district and development plan:* The city Planning Commission shall hold a public hearing on a proposed application as provided for in sections 1.604 and 1.605. Prior to the hearing, the Development Review Board shall make a recommendation on any proposed modifications to section 5.3060, schedule B, site development standards, including any additional regulations which apply. After receiving the Development Review Board's recommendation, the Planning Commission shall recommend, and the City Council shall consider for adoption, an amendment creating a PBD overlay district only after making the following findings:

1. That the development plan is consistent with the adopted downtown plan and other applicable policies, and that it is compatible with development in the area it will directly affect.
2. That the development plan contributes additionally, beyond the underlying regulations, to the urban design objectives articulated for downtown, and that deviations from the regulations that otherwise would apply are justified by compensating benefits of the development plan.
3. That the development plan includes adequate provisions for utilities, services, and emergency vehicle access, and, if warranted, connections between underground parking facilities.
4. That projected traffic generated by the development plan will not exceed the capacity of affected streets.

5. That the development plan will not significantly increase solar shading of adjacent land in comparison with development under prevailing regulations.

(Ord. No. 1796, 11-5-85; Ord. No. 1992, § 1, 1-5-88; Ord. No. 1996, § 1, 2-1-88; Ord. No. 3225, § 1, 5-4-99)

### **Sec. 5.3083. Cultural improvements program.**

#### **A. Purpose.** The City Council finds as follows:

- [1.] That the continued vitality of the downtown district is essential to the economic, social, and aesthetic well-being of the City of Scottsdale;
- [2.] That downtown Scottsdale has an established artistic and cultural component, based on elements including the Scottsdale Center for the Arts, the many art galleries and a variety of public activities;
- [3.] That enhancement of this cultural and artistic component will contribute to the continued welfare and revitalization of the downtown district to the benefit of both the private and public sectors;
- [4.] That the integration of publicly visible works of art into private development projects will strengthen the downtown as the cultural center of the city by incorporating the arts into the urban environment;
- [5.] That the City Council wishes to promote these goals by encouraging collaboration between developers, artists, architects, landscape architects, engineers and other project planners, and by providing a means to finance art works and cultural facilities and programs in key public areas in the downtown [district];
- [6.] That a developer of a planned block development in the downtown district is afforded certain incentives and bonuses not available to developers of similar projects.

#### **B. Definitions.**

1. *Art in public places program.* The program established pursuant to the provisions of Scottsdale Revised Code section 20-121 and 20-121.1 providing for the selection and installation of original works of art in public places within the City of Scottsdale.
2. *Art work or works of art.* All forms of limited edition or one-of-a-kind original creations of visual art created by an artist.

An original work of art, shall not include any of the following, unless specifically allowed by the Scottsdale Cultural Council. Directional elements such as supergraphics, signage or color coding except where these elements are integral parts of the original works of art; art objects which are mass-produced of standard design such as playground equipment, fountains or statuary objects; reproduction by mechanical or other means of original works of art; decorative, ornamental or functional elements created by the project architect instead of an artist commissioned for this purpose; landscape architecture or gardening except for elements designed by the artist as an integral part of the work of art; electrical, water or mechanical service for activation of the works of art; art exhibitions and educational activities; security and publicity concerning works of art, architects fees, land costs.

3. *Artist.* A practitioner in the visual arts, generally recognized by his or her critics and peers as a professional possessing serious artistic intent and ability.
4. *Building valuation.* The building valuation as determined by the development services director or his or her designee, based on the building valuation data published by the International Conference of Building Officials, and noted on the building permits. For purposes of this ordinance only, calculation of building valuation shall not include public improvements square footage, residential uses other than hotel, or hospitals as defined in section 3.100 of the zoning ordinance.
5. *Cultural trust fund.* The separate fund into which shall be placed only the monies

received pursuant to this ordinance. This fund may be used only for the purposes authorized by this ordinance.

6. *Planned block development.* A plan for a large parcel area which may include multiple ownerships, allowing flexibility in certain development standards, and subject to specific review, all as provided in section 5.3082, et seq., of the Scottsdale Zoning Ordinance.

7. *Public improvements square footage.* Square footage which is attributable to a special public improvement constructed pursuant to section 5.3090(C)(4) of the zoning ordinance, for which the developer received bonus floor area.

8. *Scottsdale Cultural Council.* The entity, and any successor, designated by the City Council to administer the art in public places program.

9. *Visual arts professional.* An artist, art educator, art critic, art administrator, designer, art historian, art museum curator or director or fine art collector, who is well respected in his or her field, and recognized by his or her peers as being knowledgeable in regard to visual art.

C. *Imposition of percent for arts obligation.*

1. In a planned block development (PBD) in the downtown district, original works of art costing a minimum of one (1) percent of the building valuation shall be installed and maintained in accordance with the provisions of this ordinance, and the art in public places program.

The cost of the art work may include: Structures which enable the display of art work(s); expenses incurred within the artist's budget to cover professional fees for the artist(s); labor of assistants; materials and contracted services required for the production and installation of the work(s) of art; travel expenses of the artist for site visitation and research; transportation of the work of art to the site; site preparation for art work installation; and other installation costs of the completed art work.

2. The artists and art work shall be selected by one of the following procedures, at the option of the developer:

a. The developer may select a visual arts professional to act as a consultant. The visual arts professional will aid the developer in selecting the artist and the art work, in accordance with the guidelines set forth in this ordinance; or

b. The developer may utilize the resources and services of the Scottsdale Cultural Council in selecting the artist and/or art work, in accordance with procedures and guidelines established by the entity.

3. Original art work is to be placed within the PBD, on a site which takes into account the following: Unobstructed public viewing and accessibility; public safety; interior and exterior use patterns which are consistent with existing or future architectural and natural features; and primary uses of the building, and relationship of the proposed art work to existing art works within the site or area. Art work should be placed where visible from the street, or in exterior spaces such as walkways, plazas, and exterior building surfaces.

D. *In-lieu fee.* The developer of a PBD may pay an amount equal to one (1) percent of the building valuation or any portion of the obligation not used on site, into the cultural trust fund, in lieu of installing original art work in the PBD. Such amount shall be disbursed in accordance with the provisions of the art in public places program, provided that art work purchased with monies deposited in the cultural trust fund, shall be placed only in the downtown district.

E. *Cultural trust fund.* There is hereby established a cultural trust fund (CTF), into which shall be deposited all sums collected pursuant to the provisions of this ordinance. The CTF shall be used exclusively for the purposes and through the processes set forth in this ordinance, and in the art in public places program.

F. *Project completion.*

1. A preliminary art plan and schematic design which identifies location, type and approximate scale of the art work shall be submitted to the planning and zoning department prior to Development Review Board approval of the development project.

The Scottsdale Cultural Council will review the developer's proposed public art plan prior to Development Review Board for consistency with the public art master plan and make a written nonbinding recommendation to the Development Review Board, providing a copy to the developer.

2. A final art plan and design consisting of appropriate drawings and models shall be submitted to the planning and zoning department at or before the submission of final construction drawings.

3. On site art work must be installed by the artist, and the visual arts professional or the Scottsdale Cultural Council must certify that the requirements of this ordinance have been met, and/or the in-lieu fee must be deposited, before a certificate of occupancy will be issued for the project. Certification shall be by the Scottsdale Cultural Council only when the developer has opted not to employ a visual arts professional, and has chosen to select the artist as provided in section C(2)(b) of this ordinance.

The certification shall include: (1) a statement that the art work, artist and site meet the criteria established by this ordinance, (2) the date on which the installation or deposit was completed, and (3) an itemized account of the expenses incurred by the developer in fulfilling the requirements of this ordinance.

G. *Exemptions.* This ordinance shall not apply to:

- (1) Those portions of a planned block development for which a building permit has been issued prior to the effective date;
- (2) Individual tenant improvements; or
- (3) Alterations and reconstruction less than thirty thousand (30,000) square feet.

H. *General provisions.*

1. The fee imposed by this ordinance shall be in addition to and supplemental to all other fees imposed by the city.
2. If any provision of this ordinance is held invalid, such invalidity shall not affect other provisions which can be given effect without the valid provision. To this end, the provisions of this ordinance are declared to be severable.

(Ord. No. 2018, 6-21-88; Ord. No. 2301, § 1, 7-17-90; Ord. No. 3225, § 1, 5-4-99)

**Cross references:** Public library, § 20-16 et seq.; center for the arts, § 20-71 et seq.; Scottsdale Mall, § 20-106 et seq.

## **Sec. 5.3090. Bonus/incentive provisions.**

A. *Purpose:* The bonus provisions make available incentives for private sector participation in pursuing specifically identified downtown objectives. Bonuses are available for: Underground or off-site parking, historic preservation, residential land use, contribution of special public improvements, and PBD projects (refer to schedule B). Bonuses are available in two (2) forms:

1. Increased building intensity *via* floor area ratio (FAR) bonuses.
2. Additional Building Height: Reserved for residential uses, hotel/resort uses and PBD projects.

B. *Applications:* An application for bonus floor area shall be submitted with the application for development review, and shall include appropriate documents and identify features of the project that qualify for the bonus floor area.

C. *Computation of bonus floor area or bonus FAR:*

1. A FAR bonus for underground and on-site structure parking may be permitted pursuant to section 9.108.C.3.
2. Historic Preservation: On a site within the D district that is also zoned (HP) historic property, a bonus floor area equal to twice that of the existing historic structure may be transferred to any other site in the D district. The floor area transferred shall not exceed an FAR of two-tenths for the receiving property. An instrument satisfactory to the city attorney shall be recorded specifying the amount of bonus floor area transferred from the historic property site and the remaining amount not transferred, and ensuring permanent maintenance of the exterior appearance of the historic property as seen from public streets.
3. Residential Space: The bonus shall equal the total residential floor area on the site, determined on the basis of space used for dwelling units, but shall not exceed the maximum permitted by the FAR ratios in section 5.3060, schedule B. In large projects with bonus floor area for residential space, each phase of construction must contain an equal proportion of residential space, unless the project review director finds that requirement is infeasible because of the building design. The residential height and floor area ratio bonuses shall not apply to specialized health care facilities and minimal health care facilities.
4. Special Public Improvements: Bonus floor area, not to exceed a three-tenths FAR, may be awarded to a project by City Council at its discretion for contributions to a special downtown improvement fund, or for dedication of land and construction of improvements in excess of those required of similarly situated properties. The bonus floor area shall be the cost the contribution divided by the per square foot value of the project's land as determined by the city. At its discretion, the city may commission one (1) or more fair market appraisals, to be paid for by the contributor, to assist in estimating the per square foot value of the project's land.
5. Planned Block Development: A FAR bonus not to exceed one-tenth will be provided for participation in a planned block development, pursuant to section 5.3082.

(Ord. No. 1796, 11-5-85; Ord. No. 1992, § 1, 1-5-88; Ord. No. 2736, § 1, 3-7-95; Ord. No. 3225, § 1, 5-4-99)



**Sec. 6.1200. (DO) DOWNTOWN OVERLAY.****Sec. 6.1201. Purpose.**

The primary purpose of the downtown overlay district is to create new opportunities for the development or expansion of properties that do not have (D) downtown zoning. The (DO) downtown overlay also provides additional regulations for properties with and without downtown zoning. Specific objectives of the downtown overlay include:

- A. Simplify parking regulations to ease the downtown development process.
- B. Provide incentives for new buildings, remodels, for buildings with new tenants, or for building area expansions of smaller downtown businesses.
- C. Allow for more residences in downtown.
- D. Maintain a mixture of land uses to keep downtown vital in the day and night.
- E. Minimize the impact of bars, after hours establishments, tattoo and related businesses and other similar uses on neighboring properties.
- F. Enhance the nature of downtown by encouraging uses that cater to all ages and by requiring greater oversight of potentially detrimental uses.
- G. Assure consistent regulation of design and architecture throughout downtown.

(Ord. No. 3520, § 1, 7-1-03; Ord. No. 3543, § 1(Exh. 1), 12-9-03)

**Sec. 6.1202. Conflict with other sections.**

Where there is conflict between these (DO) downtown overlay district provisions and other sections of the Zoning Ordinance, these district regulations (Sections 6.1200 through 6.1209) shall govern development within the (DO) downtown overlay district.

Properties with (D) downtown district zoning shall not be subject to these (DO) downtown overlay district regulations except for the following requirements: regulation of bars/nightclubs, after hours establishments, regulation of tattoo and related businesses, provision of parking, and parking waivers.

(Ord. No. 3520, § 1, 7-1-03; Ord. No. 3543, § 1(Exh. 1), 12-9-03)

**Sec. 6.1203. Definitions.**

*Tattoo and related businesses:* shall include the following services for the human body: tattooing, branding, scarification and piercing. Piercing of the ears and tattoos used for permanent makeup for the face shall not be considered tattoo and related businesses.

(Ord. No. 3520, § 1, 7-1-03; Ord. No. 3543, § 1(Exh. 1), 12-9-03)

**Sec. 6.1204. Approvals required.**

No structure except a detached single-family dwelling shall be built or altered without Development Review Board approval to be obtained as prescribed in Article I, Section 1.900. All development shall be consistent with the City's Urban Design and Architectural Guidelines.

(Ord. No. 3520, § 1, 7-1-03; Ord. No. 3543, § 1(Exh. 1), 12-9-03)

**Sec. 6.1205. Land use standards.**

A. Land uses that are regulated through the (DO) downtown overlay are shown in Schedule A. Land uses that are not listed in schedule a are regulated by the underlying zoning categories. Land uses that are regulated by the (DO) downtown overlay are allowed at the following levels of permitted activity:

TABLE INSET:

"P"	Permitted without conditions.
"L"	Permitted with limitations to size or use characteristics as described in land use classifications (Section 6.1206)
"CU"	Permitted with a Conditional Use Permit
"N"	Not permitted

Schedule A  
Land Use Regulation For The (DO) Downtown Overlay District

TABLE INSET:

Use classifications	
<b>Residential</b>	
Multifamily residential (3)	P
Single-family residential (1)	L
<b>Commercial</b>	
After hours establishments. (see sec. 1.403 for criteria)	CU
Bars(2), except for properties with (R-5) Multiple-family Residential District and (S-R) Service Residential zoning. (see sec. 1.403 for criteria)	CU
Bars(2), for properties with (R-5) Multiple-family Residential District and (S-R) Service Residential zoning.	N
Drive-through and drive-in restaurants	N
Tattoo and related businesses, except for properties with (R-5) Multiple-family Residential District and (S-R) Service Residential zoning. (see sec. 6.1205.B. for criteria)	CU
Tattoo and related businesses, for properties with (R-5) Multiple-family Residential District and (S-R) Service Residential zoning	N

(1) Cannot occupy more than twenty-five (25) percent of the first-floor floor area and cannot be located along street frontages on the first floor.

(2) Commercial use classification as set in Sec. 6.1206.B.2.

- (3) Shall not occupy the first floor in Special District Type 1 areas as designated in the Downtown Plan Urban Design and Architectural Guidelines Map of Special Districts and identified by Figure 6.1.

FIGURE 6.1 SPECIAL DISTRICTS TYPE 1 AREAS AS DESIGNATED IN THE DOWNTOWN PLAN URBAN DESIGN AND ARCHITECTURAL GUIDELINES MAP OF SPECIAL DISTRICTS.

**GRAPHIC LINK: [Figure 6.1](#)**

B. Uses permitted by Conditional Use Permit under this section shall meet the use permit criteria as specified in Section 1.400 Conditional Use Permits and the following additional criteria:

1. Tattoo parlors and related businesses.
  - a. Shall comply with all applicable state and county regulations.
  - b. No other tattoo parlor shall be located within one thousand (1,000) feet of the proposed tattoo parlor use.
  - c. The proposed tattoo parlor use shall not be located within five hundred (500) feet of property zoned R-1 OR S-R.

(Ord. No. 3520, § 1, 7-1-03; Ord. No. 3543, § 1(Exh. 1), 12-9-03)

**Sec. 6.1206. Land use classifications.**

A. *Residential use classifications.*

1. Multifamily residential: Two (2) or more dwelling units on a lot.
2. Single-family residential: One (1) dwelling unit on a lot.

B. *Commercial use classifications.*

1. After hour establishments.
2. Bar and cocktail lounges.

Taverns, nightclubs and lounges shall be classified as bars if they meet the definition.

3. Restaurant.
4. Tattoo and related businesses.

(Ord. No. 3520, § 1, 7-1-03; Ord. No. 3543, § 1(Exh. 1), 12-9-03)

**Sec. 6.1207. Site development standards.**

A. For municipal uses that require a Municipal Use Master Plan, the City Council may modify the property development standards of the underlying zoning district.

B. Schedule B prescribes development standards applicable to the (DO) downtown overlay district. References in the additional regulations column refer to regulations located elsewhere in the Zoning Ordinance.

Schedule B  
Site Development Standards

TABLE INSET:

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I. Development requirements within the (DO) Downtown Overlay (all non (D) Downtown zoned zoning districts)		Additional regulations
1.	Floor area ratio (FAR) 0.8	
	A. FAR bonus maximum 0.5	Section 6.1209
	Total maximum FAR (excluding residential) 1.3	
2.	Building Volume No maximum	
3.	Open Space None required and the site development shall demonstrate conformance to the Downtown Plan Urban Design and Architectural Guidelines.	

TABLE INSET:

II. Site requirements within (DO) Downtown Overlay (all zoning districts)		
1.	Minimum site area None required	
2.	Minimum front building setback 16 feet from planned curb	Sections 6.1207.C.2 and 6.1207.C.3.
3.	Minimum interior side building setback None.	
4.	Minimum corner side building setback 16 feet from planned curb	
5.	Minimum rear building setback Minimum of 50 feet when adjacent to single-family residential districts, and minimum of 25 feet when adjacent to multi-family residential districts. No minimum in all other instances except as required for off-street loading and trash storage.	

TABLE INSET:

III. Building design requirements (all non-(D) downtown zoned zoning districts)		Properties with (S-R) Service Residential zoning	All other zoning districts
1.	Height maximum (all uses)	26 feet	36 feet
2.	Building envelope, starting at a point 26 feet above the building setback line, the inclined stepback plane slopes at:	Does not apply	2:1 on the front, and 1:1 on the other sides of a property

TABLE INSET:

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IV. Residential density (all zoning districts)	
1.	Maximum residential density 23 dwelling units per gross acre

**C. Additional regulations.**

1. Spacing between two (2) buildings on the same site shall be not less than ten (10) percent of the larger building's two (2) longest adjacent sides at the space (e.g. Front and side).
2. Where existing setbacks on forty (40) percent or more of a block face are less than the specified setback, the required setback on a site to be developed shall be the average setback of the developed portion of the block face. Section 7.201 (adjustment of front yard requirements) shall not apply.
3. Buildings fronting on Camelback Road, Indian School Road, and on Scottsdale Road north from Camelback Road and south from Osborn Road to the Downtown Overlay district boundary, shall be setback forty (40) feet from the planned curb line. Buildings fronting on Drinkwater Boulevard and Goldwater Boulevard shall be setback thirty (30) feet from the planned curb line. The regulations of section 5.3062 shall also apply to these front setbacks.

(Ord. No. 3520, § 1, 7-1-03; Ord. No. 3543, § 1(Exh. 1), 12-9-03)

**Sec. 6.1208. Parking regulations.**

The provisions of Article IX shall apply except for the following provisions:

**TABLE INSET:**

COMMERCIAL/RETAIL SERVICE USES	PARKING SPACES REQUIRED
Banks/financial/civic offices	One (1) space per three hundred (300) square feet of gross floor area.
Bars, taverns, nightclubs, lounges	One (1) space per eighty (80) square feet of gross floor area. One (1) space per two hundred (200) square feet of outdoor public floor area, excluding the first two hundred (200) square feet.
Establishments with live entertainment	One (1) space per eighty (80) square feet of gross floor area, plus one (1) space which is available to the live entertainment establishment between 8:00 p.m. and 2:00 a.m. per twenty-five (25) square feet of gross floor area.
Freestanding stores	One (1) space per three hundred (300) square feet of gross floor area.
Office, business and professional services	One (1) space per three hundred (300) square feet of gross floor area.
Personal services	One (1) space per three hundred (300) square feet of gross floor area.
Restaurants	One (1) parking space for each one hundred and twenty (120) square feet of gross floor area. One (1) space for each three hundred fifty (350) square feet of outdoor public floor area. Exclude the first three hundred fifty (350) square feet of outdoor public floor area, unless the space is located next to and oriented toward a publicly owned walkway, in which case the first five hundred (500) feet of outdoor public floor area is excluded.

Restaurants that serve breakfast and lunch only	One (1) parking space for each two hundred fifty (250) square feet of gross floor area. One (1) space for each three hundred fifty (350) square feet of outdoor public floor area. Exclude the first three hundred fifty (350) square feet of outdoor public floor area, unless the space is located next to and oriented toward a publicly owned walkway, in which case the first five hundred (500) feet of outdoor public floor area is excluded.
Live performing arts theaters	One (1) parking space per ten (10) seats.
All other uses	As specified in Article IX.

(Ord. No. 3520, § 1, 7-1-03; Ord. No. 3543, § 1(Exh. 1), 12-9-03)

### **Sec. 6.1209. Revitalization bonus/incentive provisions.**

A. *Purpose:* the bonus provisions make available incentives for private sector participation in pursuing revitalization of downtown properties.

B. *Bonus:* the development review board may approve a bonus of up to 0.5 floor area ratio when it is demonstrated that:

1. The bonus is for retail, office and personal services uses allowed in the underlying district.
2. Existing structures on the property are renovated or remodeled in conjunction with the bonus new buildings, remodels, for buildings with new tenants, or for building area expansion.
3. That a new building is being constructed.

C. *Process for bonus floor area or bonus FAR:*

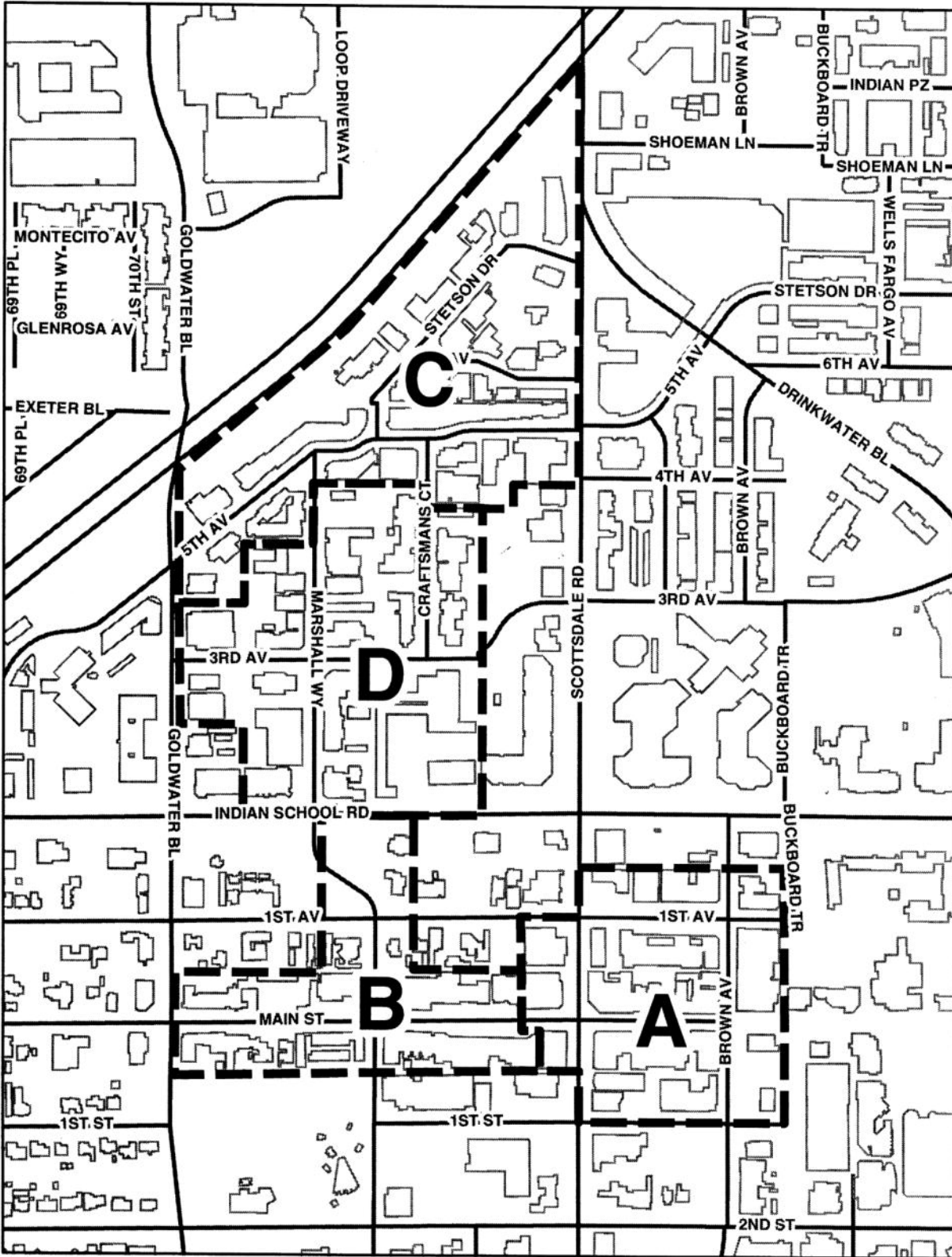
1. An application for bonus floor area shall be submitted with the application for Development Review, and shall include appropriate documents and identify features of the project that qualify for the bonus floor area. As with properties rezoned to Downtown, the bonus shall equal the total floor area on the site, determined on the basis of space used, but shall not exceed the maximum permitted by the FAR ratios in Section 6.1207, Schedule B. In large projects with bonus floor area for residential space, each phase of construction must contain an equal proportion of residential and non-residential space, unless the Current Planning Services Director finds that requirement is infeasible because of the building design. The height and floor area ratio bonuses shall not apply to specialized health care facilities and minimal health care facilities.

2. Approval for FAR greater than allowed by the ordinance: the City Council shall have the authority to review and consider a request to exceed the maximum FAR allowed in Section 6.1207, Schedule B upon finding that the increased FAR is appropriate and compatible with the surrounding area. Requests shall be subject to all public notice and community involvement requirements pertinent to the public hearing process of Section 1.702.

3. This bonus shall be available on a cumulative basis. The application for bonus floor area ratio after the first application, and any subsequent application thereafter, shall contain the documentation of any previous approvals and shall include analysis of how the cumulative total 0.5 bonus far is not being exceeded.

(Ord. No. 3520, § 1, 7-1-03; Ord. No. 3543, § 1(Exh. 1), 12-9-03)

FIGURE 6.1 SPECIAL DISTRICTS TYPE 1 AREAS AS DESIGNATED IN THE  
DOWNTOWN PLAN URBAN DESIGN AND ARCHITECTURAL GUIDELINES MAP  
OF SPECIAL DISTRICTS



**Special Districts**

- A. OLD TOWN**
- B. WEST MAIN**
- C. FIFTH AVENUE**
- D. MARSHALL WAY-CRAFTSMAN'S COURT**